

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 97-0412 ST  
SALES & USE TAX  
FOR TAX PERIOD: 1993 THROUGH 1995**

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**ISSUE**

**I. Sales & Use Tax – Consumable Supplies**

**Authority:** IC 6-2.5-5-5.1; IC 6-2.5-5-3; 45 I.A.C. 2-2-4-6; 45 I.A.C. 2.2-5-15

Taxpayer protests the imposition of sales/use tax on supplies utilized in the rejuvenation/replenishing of water tank cores.

**STATEMENT OF FACTS**

Taxpayer is a retail merchant in the business of selling, leasing and servicing water conditioning systems. The auditor assessed use tax liability on supplies used by the taxpayer in a process which rejuvenates or replenishes the water tank cores. Taxpayer protested this assessment. Additional information will be provided below, as necessary.

**I. Sales & Use Tax – Consumable Supplies**

**DISCUSSION**

The taxpayer argues the supplies at issue are used in a chemical replenishing process. Taxpayer attempts to distinguish this process from rejuvenation, or a cleaning process. Taxpayer has

thoroughly described the process by which it “charges” the core of the water tanks.

Taxpayer argues it is leasing to the customer a sodium-charged core. Taxpayer states the core is made up of carbon-based plastic beads which chemically attract both sodium and calcium. Taxpayer charges the core of the water tanks with sodium. The customers have lime (calcium carbonate) in their water. The carbonate will not release the calcium unless there is sodium present. The carbonate then attaches to the sodium. Essentially, calcium “pushes” the sodium off the core. As the customer uses the tank, the core becomes saturated with calcium and the tank is ineffective for its purposes. Taxpayer brings the tank back to its plant. Taxpayer flushes the core with salt (sodium chloride). Another chemical exchange takes place as the calcium attaches to the chloride and the sodium attaches to the core.

Taxpayer argues salt is not a cleaning agent but a mineral. Taxpayer cites 45 I.A.C. 2.2-4-6(b) and argues the salt is a mineral contained within the tank and not a cleaning agent as listed in 45 I.A.C. 2.2-4-6(e). Taxpayer claims there is no rejuvenation because the original minerals were released when used by the customer. Taxpayer states the process reloads sodium on to the core so the core can be reused. Taxpayer argues it is exempt per IC 6-2.5-5-1(b):

Transactions involving tangible personal property are exempt from the state gross retail tax if the person acquiring the property acquires it for his direct consumption as a material to be consumed in the direct production of other tangible personal property in his business of manufacturing, processing, refining, repairing, mining, agriculture, horticulture, floriculture, or arboriculture.

Taxpayer argues the sodium is also exempt because taxpayer is engaged in processing per IC 6-2.5-5-3(b):

Transactions involving manufacturing machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for direct use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property.

Taxpayer argues the processing can be distinguished from rejuvenation. Taxpayer claims the end product (the tank with a charged core) is different, the value is increased, the expected life cycle is increased and without the process the tank would not serve its intended purpose.

The Department finds the taxpayer is providing a service to its customers when it maintains the effectiveness of the tanks. The taxpayer is not involved in “processing” when the cores are charged.

The auditor assessed tax on the supplies, including salt, used in this process. The auditor stated the supplies were not transferred but consumed by the taxpayer during the process. The auditor found the supplies were subject to tax pursuant to 45 I.A.C. 2.2-5-15:

The state gross retail tax shall not apply to sales of any tangible personal property to a purchaser who purchases the same for the purpose of reselling, renting or leasing, in the regular course of the purchaser's business, such tangible personal property in the form on which it is sold to such purchaser. 45 I.A.C. 2.2-5-15(a).

The auditor further states that purchases of salt and materials not for resale and cleaning agents used in the rejuvenation process are taxable pursuant to 45 I.A.C. 2.2-4-6 (see below).

The taxpayer disputes the auditor's interpretation of the process. First, the taxpayer claims the salt is not consumed during the process at the taxpayer's location but is later consumed by the customer. Second, the taxpayer claims it is not a cleaning or rejuvenating process but a replenishing of the sodium on the core.

This Letter of Findings will work through the individual sections of the Regulation in question (45 I.A.C. 2.2-4-6) in order to clearly state the Department's finding.

45 I.A.C. 2.2-4-6(a):

Water conditioning companies (including all soft water companies) are retail merchants making retail transactions with respect to all tangible personal property sold, leased, or rented by them and must collect the sales tax on all such property unless the purchaser or user is entitled to claim exemption from the sales tax and furnished a properly completed exemption certificate.

Taxpayer leases the water conditioning tanks to customers who must pay sales tax on the price of the lease unless the customers furnish a tax exemption certificate.

45 I.A.C. 2.2-4-6(b):

For purposes of collection of the tax, the term "water conditioner" shall include all automatic softeners, softener tanks, exchange tanks, purifiers, chlorinators, or any other device or equipment, together with the minerals contained therein used to condition, purify or soften water.

This section defines "water conditioner" and addresses the taxability of a transaction between the taxpayer (a water conditioning company) and a customer. This section does not address the taxability of individual components of a water conditioning system, or the supplies utilized in the process, purchased by the taxpayer. Therefore, taxpayer can not rely on this section to support a claim of tax exemption for purchases of salt or other supplies.

45 I.A.C. 2.2-4-6(c):

Rented or leased water conditioners, including those leased with an option for purchase, or those otherwise furnished for a monthly or other periodic charge are subject to the sales tax on the amount charged. Such conditioners subsequently sold

after July 1, 1969, shall be subject to the tax on the full selling price. The tax is due on any payment required to exercise the option.

Again, this section applies to the taxability of a transaction between the taxpayer and a customer.

45 I.A.C. 2.2-4-6(d):

Purchases by a water conditioning company of water conditioners, tanks and other equipment to be subsequently sold or rented are not subject to the sales tax.

Section (d) addresses the taxability of items purchased by the taxpayer, as a water conditioning company. The Department finds the salt/sodium used in the process of rejuvenation is not subsequently sold or rented and not tax exempt per this section.

45 I.A.C. 2.2-4-6(e):

Purchases of all other equipment, supplies and materials not for resale, including salt or any other cleaning agent used to rejuvenate water tanks or the minerals therein, are subject to the sales tax.

Finally, section (e) addresses the taxability of all other equipment and supplies purchased by the taxpayer that were not specifically exempted in section (d). Salt/sodium whether labeled a cleaning agent, or not, is taxable because it is not included in section (d).

### **FINDING**

Taxpayer's protest is denied. The salt/sodium and other supplies used in the process are taxable. This is not a process which is granted an exemption by IC 6-2.5-5-5.1 or IC 6-2.5-5-3. Whether it is classified as rejuvenating or replenishing does not effect the taxability of the supplies consumed.